

EXHIBIT U

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE WILLIAM H. ALSUP

ORACLE AMERICA, INC.,)	
)	
PLAINTIFF,)	
)	
VS.)	NO. C 10-3561 WHA
)	
GOOGLE, INC.,)	
)	
DEFENDANT.)	SAN FRANCISCO, CALIFORNIA
)	APRIL 27, 2012

TRANSCRIPT OF JURY TRIAL PROCEEDINGS

APPEARANCES:

FOR PLAINTIFF:

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(APPEARANCES CONTINUED ON NEXT PAGE)

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BY: RENNY HWANG, LITIGATION COUNSEL

ALSO PRESENT:

SAFRA CATZ, PRESIDENT AND CFO
 ORACLE CORPORATE REPRESENTATIVE

CATHERINE LACAVERA
 GOOGLE CORPORATE REPRESENTATIVE

— — —

1 MIC. THANK YOU.

2 GO AHEAD, MR. NORTON.

3 **DIRECT EXAMINATION**

4 **BY MR. NORTON**

5 **Q.** GOOD MORNING, MS. CATZ.

6 **A.** GOOD MORNING.

7 **Q.** WHERE ARE YOU EMPLOYED?

8 **A.** I'M EMPLOYED AT ORACLE CORPORATION.

9 **Q.** AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

10 **A.** SINCE 1999.

11 **Q.** AND WHAT IS YOUR TITLE TODAY AT ORACLE?

12 **A.** I'M PRESIDENT, I'M CHIEF FINANCIAL OFFICER, AND I'M ON THE
13 BOARD OF DIRECTORS.

14 **Q.** AND CAN YOU EXPLAIN WHAT IT IS, WHAT YOUR RESPONSIBILITIES
15 ARE AS THE PRESIDENT AND CHIEF FINANCIAL OFFICER OF ORACLE?

16 **A.** I RUN WORLDWIDE OPERATIONS AND THE ENTIRE FINANCE
17 ORGANIZATION, SO THE FINANCIAL ASPECTS OF ORACLE.

18 **Q.** NOW, IN YOUR JOB AT ORACLE, ARE YOU FAMILIAR WITH
19 SOMETHING CALLED THE APACHE HARMONY PROJECT?

20 **A.** I AM.

21 **Q.** TO WHAT EXTENT, IF ANY, DID ORACLE PROVIDE ANY FINANCIAL
22 OR TECHNICAL SUPPORT TO THE HARMONY PROJECT?

23 **A.** WE NEVER SUPPLIED ANY FINANCIAL RESOURCES, TECHNICAL
24 RESOURCES, OR ANYTHING TO THE HARMONY PROJECT.

25 **Q.** NOW, TO WHAT EXTENT, IF ANY, DID ORACLE EVER USE ANYTHING

1 FROM THE HARMONY PROJECT?

2 **A.** WE NEVER USED ANYTHING FROM THE HARMONY PROJECT.

3 **Q.** TO WHAT EXTENT, IF ANY, DID ORACLE EVER CONSIDER USING
4 ANYTHING FROM THE HARMONY PROJECT?

5 **A.** WE NEVER CONSIDERED IT FROM A -- WE DIDN'T NEED TO. WE
6 HAD OUR OWN INDEPENDENT IMPLEMENTATION, AND WE HAD A LICENSE
7 FROM SUN FOR OUR OWN IMPLEMENTATION.

8 **Q.** DURING THE TRIAL WE'VE HEARD CLAIMS BY GOOGLE THAT ORACLE
9 FILED THIS LAWSUIT ONLY TO TAKE ADVANTAGE OF GOOGLE'S
10 INNOVATION WHERE ORACLE HAD FAILED TO SUCCEED WITH JAVA.

11 **A.** OH, THAT COULDN'T BE FURTHERER FROM THE TRUTH. WE NEVER
12 WANTED TO BE IN THIS LITIGATION WITH GOOGLE.

13 **Q.** WELL, WHAT DID YOU DO, IF ANYTHING, BEFORE BRINGING THIS
14 LAWSUIT AGAINST GOOGLE?

15 **A.** WE REACHED OUT TO GOOGLE A NUMBER OF TIMES TRYING TO GET
16 THIS MATTER RESOLVED WITH THEM. WE MET WITH THEM. YOU KNOW, A
17 NUMBER OF US MET WITH THEM AT DIFFERENT TIMES.

18 **Q.** WERE YOU INVOLVED IN ANY OF THOSE MEETINGS?

19 **A.** YEAH. I WAS INFORMED ABOUT THE OTHER MEETINGS, BUT I WAS
20 ACTUALLY INVOLVED WITH ONE WITH ALAN EUSTACE, ANDY RUBIN'S BOSS
21 AT THE TIME.

22 **Q.** CAN YOU EXPLAIN WHAT IT WAS YOU WERE TRYING TO ACCOMPLISH
23 BY MEETING WITH GOOGLE -- APPROXIMATELY WHEN WERE THESE
24 MEETINGS TAKING PLACE?

25 **A.** WELL, WE ACTUALLY ACQUIRED SUN IN -- IN JANUARY OF 2010.

1 AND SO AFTER THAT THE -- THE MEETING I WENT TO ALAN EUSTACE WAS
2 ALMOST TWO YEARS AGO NOW, SO JUNE OF -- JUNE OF 2010 --

3 Q. AND WHAT WERE YOU TRYING TO ACCOMPLISH --

4 A. (CONTINUING) -- MAY MAYBE. MAY, JUNE, SOMETHING LIKE
5 THAT.

6 Q. AND IN THESE MEETINGS AROUND MAY, JUNE, 2010, WHAT WAS IT
7 THAT YOU WERE TRYING TO ACCOMPLISH BY MEETING WITH GOOGLE?

8 A. WELL, WE HAD REALLY TWO OBJECTIVES. ONE WAS TO BRING
9 ANDROID ON INTO JAVA COMPATIBILITY. THAT WAS VERY, VERY
10 CRITICAL. THE OTHER PART WAS TO GET ANDROID LICENSED AND
11 PAYING FOR THE INTELLECTUAL PROPERTY.

12 Q. NOW, FOCUSING ON THE MEETING THAT YOU HAD WITH
13 MR. EUSTACE, TO WHAT EXTENT, IF AT ALL, DID YOU EXPRESS
14 ORACLE'S POSITION AT THAT MEETING ON JAVA LICENSING FOR
15 ANDROID?

16 A. I WAS ACTUALLY AT THAT MEETING WITH THOMAS KURIAN. SO IT
17 WAS THE TWO OF US WITH ALAN, AND WE LAID OUT REALLY A FULL --

18 MS. ANDERSON: OBJECTION, YOUR HONOR, HEARSAY.

19 THE WITNESS: OH. OH, I CAN SAY --

20 THE COURT: THE -- IS THAT YOUR ONLY OBJECTION?

21 MS. ANDERSON: IT SOUNDED LIKE, YOUR HONOR, THE
22 WITNESS WAS ABOUT TO DISCUSS WHAT ORACLE REPRESENTATIVES WERE
23 SAYING, WHICH IS THE BASIS FOR THE HEARSAY OBJECTION, YOUR
24 HONOR.

25 THE COURT: WHAT IS THE POINT OF THIS TESTIMONY?

1 **BY MS. ANDERSON**

2 **Q.** MS. CATZ, YOU DON'T HAVE ANY REASON TO DISPUTE
3 MR. SCHWARTZ'S TESTIMONY ABOUT WHAT HIS VIEW WAS OF THE
4 POLICIES AND PRACTICES OF SUN PRIOR TO THE ACQUISITION BY
5 ORACLE, DO YOU; YOU WEREN'T THERE, RIGHT?

6 **MR. NORTON:** OBJECTION.

7 **THE COURT:** THOSE ARE TWO DIFFERENT QUESTIONS. SHE
8 COULD HAVE GONE BACK AND READ A LOT OF EMAILS AND HAVE GOOD
9 REASON TO DISPUTE THAT OR NOT. ON THE OTHER HAND, SHE WASN'T
10 THERE AND COULD NOT HAVE FIRST-HAND KNOWLEDGE. YOU ASKED TWO
11 SEPARATE QUESTIONS.

12 **BY MS. ANDERSON**

13 **Q.** ISN'T IT TRUE, MS. CATZ, THAT YOU HAVE NO PERSONAL
14 KNOWLEDGE TO DISPUTE THE FACT THAT MR. SCHWARTZ'S REPORTED
15 POLICY, AS CEO OF SUN PRIOR TO THE ACQUISITION, WAS TO TREAT
16 APIS IN THE JAVA LANGUAGE AS FREELY AVAILABLE FOR USE, CORRECT?

17 **A.** I ALMOST LOST TRACK OF YOUR QUESTION.

18 **THE COURT:** SHE IS ASKING IF YOU HAVE ANY FIRST-HAND
19 KNOWLEDGE OF ANYTHING THAT HAPPENED AT SUN.

20 AND I TAKE IT THE ANSWER IS NO, BECAUSE YOU NEVER
21 WORKED AT SUN.

22 **THE WITNESS:** CORRECT. I WAS NOT THERE.

23 **THE COURT:** THAT'S A NON-STARTER QUESTION. THAT'S AN
24 ARGUMENT.

25 **MS. ANDERSON:** THANK YOU, YOUR HONOR.

1 **BY MS. ANDERSON**

2 **Q.** BUT YOU DO KNOW THAT, UPON ORACLE'S ACQUISITION, ORACLE
3 SOUGHT TO ASSERT RIGHTS IN APIS; IS THAT RIGHT?

4 **A.** WE TALKED ABOUT OUR INTELLECTUAL PROPERTY TO THE DIFFERENT
5 PARTS OF JAVA, YES.

6 **Q.** AND THAT HAPPENED AFTER ORACLE THOUGHT ABOUT AND DECIDED
7 NOT TO PURSUE A JAVA PHONE, RIGHT?

8 **A.** IT'S AFTER WE LOOKED AT A JAVA PHONE IDEA.

9 **Q.** RIGHT. AND ORACLE NEVER PURSUED THAT, CORRECT?

10 **A.** NO, WE DID NOT.

11 **Q.** DID NOT PURSUE IT; IS THAT RIGHT?

12 **A.** IT'S PRETTY HARD TO COMPETE WITH FREE.

13 **Q.** RIGHT. AND AT SOME POINT IN TIME, YOU TESTIFIED EARLIER,
14 THAT ORACLE WENT TO GOOGLE AND STARTED TO DEMAND LICENSING IN
15 RELATION TO JAVA; IS THAT RIGHT?

16 **A.** THAT'S RIGHT.

17 **Q.** THAT WAS YOUR TESTIMONY JUST A FEW MINUTES BEFORE,
18 CORRECT?

19 **A.** WE -- WE DID.

20 **Q.** AND IN EXHIBIT 1074, WHICH WAS SHOWN TO YOU BY YOUR
21 COUNSEL, THAT WAS THE RESPONSE FROM GOOGLE, RIGHT?

22 **MS. ANDERSON:** COULD WE PLEASE HAVE THAT UP ON THE
23 SCREEN, BEN?

24 (DOCUMENT DISPLAYED)

25

1 BY MS. ANDERSON

2 Q. DRAWING YOUR ATTENTION TO THAT FIRST PARAGRAPH,
3 MR. EUSTACE, A REPRESENTATIVE OF GOOGLE, TOLD YOU THAT GOOGLE
4 WOULD NOT PAY FOR THOSE THAT IT WASN'T USING; IS THAT RIGHT?

5 A. THAT'S WHAT HE WROTE IN THAT EMAIL.

6 Q. AND HE TOLD YOU HE WASN'T GOING TO PAY FOR A LICENSE TO IP
7 THAT HE BELIEVED GOOGLE WAS NOT VIOLATING, RIGHT?

8 A. THAT'S WHAT HE WROTE.

9 Q. ALL RIGHT. AND FREELY AVAILABLE SOFTWARE IS NOT SOMETHING
10 THAT ORACLE HAS A RIGHT TO, CORRECT?

11 A. FREELY AVAILABLE SOFTWARE?

12 Q. YES.

13 A. IS NOT SOMETHING WE HAVE A RIGHT TO?

14 Q. DO YOU AGREE WITH THAT STATEMENT?

15 A. I THINK YOU'RE -- I'M NOT SURE I GET YOUR QUESTION.

16 DO WE NOT HAVE A RIGHT TO FREELY AVAILABLE SOFTWARE?
17 WE HAVE A RIGHT TO FREELY AVAILABLE SOFTWARE AS MUCH AS ANY
18 OTHER COMPANY HAS A RIGHT TO FREELY AVAILABLE SOFTWARE.

19 Q. THANK YOU.

20 AND JUST VERY BRIEFLY, YOU TESTIFIED THAT YOU ARE THE
21 PRESIDENT OF ORACLE CURRENTLY, CORRECT?

22 A. I'M THE PRESIDENT OF ORACLE CORPORATION. IT'S THE PARENT
23 COMPANY OF ORACLE AMERICA IN THIS CASE.

24 Q. AND YOUR COMPENSATION IS ON THE ORDER OF TENS OF MILLIONS
25 OF DOLLARS ANNUALLY, CORRECT?

CERTIFICATE OF REPORTER

DEBRA L. PAS, OFFICIAL REPORTER FOR THE UNITED STATES COURT, NORTHERN DISTRICT OF CALIFORNIA, HEREBY CERTIFIES THAT THE FOREGOING PROCEEDINGS IN C 10-3561 WHA, **ORACLE AMERICA, INC., VS. GOOGLE, INC.**, WERE REPORTED BY HER, CERTIFIED SHORTHAND REPORTER, AND WERE THEREAFTER TRANSCRIBED UNDER HER DIRECTION INTO TYPEWRITING; THAT THE FOREGOING IS A FULL, COMPLETE AND TRUE RECORD OF SAID PROCEEDINGS AT THE TIME OF FILING.

/S/ DEBRA L. PAS

DEBRA L. PAS, CSR #11916, RMR CRR

FRIDAY, APRIL 27, 2012

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